

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, AUGUST 1, 2007**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of August 1, 2007, was called to order by Mayor Johnson at 5:45 p.m.

Present: Council Members – Hansen, Hitchcock, Katzakian [excluding C-2(a)], Mounce, and Mayor Johnson

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Actual Litigation: Government Code §54956.9(a); One Case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- b) Pursuant to Government Code §54956.9(c); Conference with Legal Counsel; Anticipated Litigation/Initiation of Litigation; One Potential Case; City of Lodi v. Pacific Gas & Electric
- c) Actual Litigation: Government Code §54956.9(a); One Case; County of San Joaquin v. City of Stockton et al., San Joaquin County Superior Court, Case No. CV029651
- d) Prospective Acquisition of Real Property Located at 541 East Locust Street, Lodi, California (APN 043-202-14); the Negotiating Parties are City of Lodi and Pete Perlegos; Government Code §54956.8

C-3 ADJOURN TO CLOSED SESSION

At 5:45 p.m., Mayor Johnson adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:02 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:02 p.m., Mayor Johnson reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

In regard to Items C-2 (a), C-2 (c), and C-2 (d), discussion was had and general direction given.

In regard to Item C-2 (b), City Attorney Schwabauer provided a brief description of the case and stated settlement authority was given in the amount of \$34,785.40.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of August 1, 2007, was called to order by Mayor Johnson at 7:02 p.m.

Present: Council Members – Hansen, Hitchcock, Katzakian, Mounce, and Mayor Johnson

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. INVOCATION

The invocation was given by Pastor Dale Edwards, Century Assembly.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Johnson.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 (a) Mayor Johnson presented a proclamation to Police Chief Jerry Adams and Crime Prevention Officer Andrea Patterson proclaiming Tuesday, August 7, 2007, as "National Night Out 2007" in the City of Lodi.

D-3 Presentations – None

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Mayor Pro Tempore Mounce, Hansen second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

E-1 Claims were approved in the amount of \$7,045,068.64.

E-2 The minutes of July 17, 2007 (Shirtsleeve Session) and July 19, 2007 (Special Joint Meeting w/RDA and Lodi Planning Commission) were approved as written.

E-3 Adopted Resolution No. 2007-148 authorizing the procurement of emergency generator from Holt of California (Caterpillar), of Stockton, in an amount not to exceed \$36,200 and approving the standardization of Caterpillar generators for the Electric Utility Department.

E-4 Adopted Resolution No. 2007-149 awarding the purchase of padmount transformers in the amount of \$200,330.96 to the bidders whose proposals and equipment meet City of Lodi specifications and whose transformers are expected to yield the lowest life-cycle costs.

E-5 "Adopt Resolution Awarding the Contract for Security Services at the Lodi Station and Lodi Station Parking Structure to Securitas Security Services USA, Inc., of Fresno (Estimated Three-Year Cost: \$198,000)" was **pulled from the agenda at the request of Council Member Hitchcock**.

E-6 Adopted Resolution No. 2007-150 awarding the contract for Citywide School Safety Signage Project to Farwest Safety, Inc., of Lodi, in the amount of \$81,918.50, and appropriating funds in the amount of \$88,000.

E-7 Accepted improvements under the "Domestic Outfall Sewer Pipeline Condition Assessment Project" contract.

E-8 Accepted improvements under the "Stockton Street Asphalt Concrete Resurfacing, Kettleman Lane to 1,000 Feet South of Century Boulevard Project" contract.

E-9 Adopted Resolution No. 2007-151 authorizing the City Manager to renew the agreement between San Joaquin County Data Processing and the City of Lodi Police Department for the estimated annual cost of \$10,358.92 for data processing services and access to the Automated Message Switching and Criminal Justice Information Systems.

E-10 Adopted Resolution No. 2007-152 authorizing the City Manager to execute a contract between the City of Lodi and Lodi Memorial Hospital for operation of the Adult Day Care Program and the Camp Hutchins Children's Day Care Program at Hutchins Street Square through August 2010 with extensions through 2012.

E-11 Adopted Resolution No. 2007-153 amending Traffic Resolution 97-148 by approving a reduction of speed limit on Lower Sacramento Road from south City limits to 1,300 feet south of Kettleman Lane from 55 miles per hour (mph) to 50 mph.

- E-12 "Adopt Resolution Amending Traffic Resolution No. 97-148 to Authorize the Public Works Director to Establish Terminal Access Routes" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
- E-13 Adopted Resolution No. 2007-154 authorizing the City Manager to allocate \$42,000 in Public Benefit Program funds for the Lodi CARE Package Program and execute a contract with the Lodi Salvation Army to administer this program.
- E-14 Adopted Resolution No. 2007-155 authorizing the City Manager to allocate a combined \$39,971 in Public Benefit Program funds to extend for one year the Lodi LivingWise Program and the Lodi Solar Schoolhouse Project and execute contracts with the Resource Action Programs (Lodi LivingWise Program) and The Rahus Institute (Lodi Solar Schoolhouse Project) to assist in coordinating these educational programs.
- E-15 Adopted Resolution No. 2007-156 authorizing the City Manager to allocate Public Benefit Program funds to the following five energy efficiency rebate programs for the 2007-08 fiscal year in the amount of \$250,000:
Lodi Appliance Rebate Program – \$35,000
Lodi Energy Efficient Home Improvement Rebate Program – \$40,000
Lodi G-1 Commercial Rebate Program – \$20,000
Lodi G-2 Commercial Rebate Program – \$30,000
Lodi G-3 to I-1 Commercial/Industrial Rebate Program – \$125,000
- E-16 "Adopt Resolution Adding a Position (Fire Plans Examiner) and Appropriating \$80,000 in the Community Development Department" was **pulled from the agenda by the City Manager.**
- E-17 "Adopt Resolution Amending Memorandum of Understanding between the City of Lodi and the Lodi Police Mid-Management Organization for the Period of July 1, 2007 through September 30, 2011" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
- E-18 "Adopt Resolution Disbanding the Animal Shelter Task Force, Adopt Resolution Creating and Establishing Guidelines for the Lodi Advisory Animal Commission, and Directing the City Clerk to Post for the Seven Terms on the Newly Created Commission" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
- E-19 Adopted Resolution No. 2007-157 approving the balance of the approved People Assisting Lodi Shelter (PALS) public art project and appropriating \$3,434.
- E-20 Set Public Hearing for September 5, 2007, to receive comments on and consider accepting the City of Lodi's Report on Water Quality relative to public health goals.

ACTION ON ITEMS REMOVED FROM CONSENT CALENDAR

- E-12 "Adopt Resolution Amending Traffic Resolution No. 97-148 to Authorize the Public Works Director to Establish Terminal Access Routes"

Council Member Hitchcock requested discussion on the matter. City Manager King stated the California Highway Patrol is actively enforcing the prohibition of specific sizes of trucks on certain rights of way in the City. Mr. King stated this resolution is intended to accommodate the trucking businesses so that they can do business within the City while traveling at a certain speed on said rights of way.

In response to Council Member Hitchcock, Mr. King stated the proposed resolution is not changing anything and we will continue operating as we currently do.

In response to Council Member Hitchcock, City Engineer Sandelin stated that Turner Road to Highway 99 is a current truck route and there is no change to present conditions.

Council Member Hitchcock stated recommendations can be made by the Public Works Director, but she would still like to see approvals of the truck routes come to Council. Mayor Pro Tempore Mounce agreed with the same.

City Attorney Schwabauer suggested Section 8(d) of the proposed resolution be revised to include truck access through the City of Lodi.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Mounce second, unanimously adopted Resolution No. 2007-158, as amended by City Attorney Schwabauer, amending Traffic Resolution No. 97-148, Weight Limit/Commercial Vehicle Restrictions, by adding Guild Avenue, Victor Road, and Turner Road to the list of approved truck access routes.

- E-17 “Adopt Resolution Amending Memorandum of Understanding between the City of Lodi and the Lodi Police Mid-Management Organization for the Period of July 1, 2007 through September 30, 2011”

Council Member Hitchcock stated she cannot support the item because she has many questions and concerns regarding the same.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Mounce, Hansen second, adopted Resolution No. 2007-159 amending Memorandum of Understanding between the City of Lodi and the Lodi Police Mid-Management Organization for the period of July 1, 2007 through September 30, 2011. The motion carried by the following vote:

Ayes: Council Members – Hansen, Katzakian, Mounce, and Mayor Johnson

Noes: Council Members – Hitchcock

Absent: Council Members – None

- E-18 “Adopt Resolution Disbanding the Animal Shelter Task Force, Adopt Resolution Creating and Establishing Guidelines for the Lodi Advisory Animal Commission, and Directing the City Clerk to Post for the Seven Terms on the Newly Created Commission”

Council Member Hitchcock requested a presentation of the item.

Special Services Manager Jeannie Biskup provided an overview of the make-up and functions of the newly proposed commission. Specific topics of discussion included the purpose, membership, tasks, and meetings.

In response to Council Member Hitchcock, Mr. King stated there is an incremental cost to the formation of the proposed commission with staff time.

In response to Council Member Hansen, Ms. Biskup stated the meeting schedule will remain the same as the current Animal Shelter Task Force with meetings on the 2nd Monday of every month in the Community Room at the Police Department.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Mounce second, unanimously adopted Resolution No. 2007-160 disbanding the Animal Shelter Task Force, adopted Resolution No. 2007-161 creating and establishing guidelines for the Lodi Advisory Animal Commission, and further directed the City Clerk to post for the following seven terms on the newly created commission:

Lodi Advisory Animal Commission

Term to expire December 31, 2008

Term to expire December 31, 2008

Term to expire December 31, 2009

Term to expire December 31, 2009

Term to expire December 31, 2010

Term to expire December 31, 2010

Term to expire December 31, 2010

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Robin Rushing spoke in opposition to an increase in his utility billing. In response to Council Member Hansen, Mr. Rushing stated he is already utilizing the discount program, for which he is qualified.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Mayor Pro Tempore Mounce reported on her attendance at the annual League of California Cities (LCC) Mayors and Council Members Conference and requested a Governmental Accounting Standards Board (GASB) 45 presentation. She also suggested staff take a look at the City-owned building on Elm Street.
- Council Member Hansen provided a legislative update regarding transit funds and stated the Electric Utility rating was upgraded.
- Mayor Johnson suggested staff review the timing associated with the encroachment permit process and commended individuals involved in volunteering with the animal shelter. He also spoke of a citizen concern regarding electric billing spikes and suggested an average pay program be offered. Electric Utility Director Morrow confirmed such a program was available through the City. Mayor Johnson also reported on his attendance at the annual LCC Mayors and Council Members Conference.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager King stated GASB 45 was the topic of a previous Shirtsleeve Session and an additional one may be had. He stated staff will look at the building on Elm Street and explained that there are concerns regarding a Union Pacific telegraph line that is connected to the building in some manner. Mr. King also reported that the proposed State budget will not affect the City directly and provided an overview of Proposition 42, as well as the Standard & Poor's and Fitch ratings.

I. PUBLIC HEARINGS

- I-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Johnson called for the public hearing to consider the Planning Commission's recommendation for the 2006 Growth Management Allocations for Brett & Kathy Haring and Taj Khan. *NOTE: This item is a quasi-judicial hearing and requires disclosure of ex parte communications as set forth in Resolution No. 2006-31.*

Mayor Johnson and Council Member Hitchcock disclosed that they shared email correspondence with Kathy Haring.

City Manager King provided a brief overview of the subject matter.

Community Development Director Hatch provided a presentation regarding the proposed growth management allocations. Specific topics of discussion included, but were not limited to, previous growth actions, Planning Commission hearings and recommendations, two site reviews, application and allocation process overview, applications requiring annexations, Mr. Khan's property, the need for an environmental process and studies for the remaining property, General Plan amendment application, and the overall review of the two projects.

Hearing Opened to the Public

- Kathy Haring spoke of her concerns regarding the conditions set forth in the resolution, street lighting, and exemptions for properties. Mr. Hatch stated there is still an opportunity to address specific conditions through the final approval process before the Planning Commission. He also stated an exemption exists for properties in excess of 4,000 square feet.

Public Portion of Hearing Closed

In response to Mayor Pro Tempore Mounce, Mr. Hatch stated Ms. Haring's property does not meet the requirements for the exemption because it was zoned differently when it was annexed and the size of the development differs. He also stated the new General Plan amendment would not likely affect Ms. Haring's property.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, unanimously adopted Resolution No. 2007-162 approving the Planning Commission's recommendation for the 2006 Growth Management Allocations for Brett and Kathy Haring and Taj Khan.

RECESS

At 8:08 p.m., Mayor Johnson called for a recess, and the City Council meeting reconvened at 8:17 p.m.

I. PUBLIC HEARINGS (Continued)

- I-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Johnson called for the public hearing to consider adoption of resolution levying annual (2008) assessment for Downtown Lodi Business Improvement Area No. 1 and confirming the Downtown Lodi Business Partnership 2007-08 Annual Report (as approved by Council on July 18, 2007).

City Manager King provided a general overview of the process and history associated with levying the annual assessment for the Downtown Lodi Business Improvement Area.

Hearing Opened to the Public

- Paul Easley spoke in opposition to the proposed assessment, stating he has objected to the assessment from its inception, believes the assessment is illegal, and he does not receive any benefit from the improvements.

Public Portion of Hearing Closed

In response to Mayor Pro Tempore Mounce, City Manager King stated staff is not aware of any damage to the sidewalk referenced by Mr. Easley. Mr. King stated general repairs and/or improvements to a sidewalk are the responsibility of the property owner; although, the City may share the costs under some situations.

In response to Council Member Hitchcock, City Manager King stated Zone A is \$180 and Zone B is \$90 in one zone and other zones have differing fees as well.

In response to Mayor Pro Tempore Mounce, City Clerk Johl stated the subject property is zoned for a \$120 fee pursuant to a listing of the properties.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Hitchcock second, unanimously adopted Resolution No. 2007-163 confirming the 2008 Annual Report for the Downtown Lodi Business Improvement Area No. 1 and levy of assessment.

J. COMMUNICATIONS

- J-1 Claims Filed Against the City of Lodi – None
J-2 Appointments – None
J-3 Miscellaneous – None

K. REGULAR CALENDAR

- K-1 “Receive Progress Report on the City of Lodi General Plan Update”

City Manager King briefly introduced the subject matter.

Community Development Director Hatch provided a brief presentation regarding the status of the General Plan update. Mr. Hatch reviewed the flow chart and specifically discussed the stakeholder meetings, surveys, planning area, working papers, staff review, alternative and preferred plans, hearing draft, scoping meeting, draft Environmental Impact Report, public review, and final adoption process.

In response to Council Member Hitchcock, Mr. Hatch stated the 4% response rate on the City survey is typical for this type of survey.

In response to Council Member Hansen, Mr. Hatch stated staff tracks undeliverable surveys and Council will receive an analysis of the survey results at a later date. City Manager King stated this survey will not have the same scientific validity as the citizen satisfaction survey because this survey was mailed to everyone and does not take into account the random sampling factors.

MOTION / VOTE:

There was no Council action taken on this matter.

- K-2 “Consider Request from Van Ruiten Family Winery to Waive a \$40,000 Late Performance Charge Associated with the Opening of a Downtown Tasting Room”

City Manager King provided an overview of the requested waiver and discussed the performance and utility connection related terms of the original agreement as previously approved by the City Council.

In response to Council Member Hitchcock, City Manager King stated there was some correspondence during the 12-month period communicating the delays.

PUBLIC COMMENTS:

- Jim Van Ruiten spoke in favor of the proposed waiver, stating there was a delay in finding the appropriate building for the new business and in the process with the bank.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Hitchcock second, unanimously approved the request from Van Ruiten Family Winery to waive a \$40,000 late performance charge associated with the opening of a Downtown tasting room.

- K-3 “Adopt Resolution Declaring the City of Lodi’s Intent to Reimburse Certain Expenditures from Proceeds of Indebtedness for Wastewater Projects”

City Manager King briefly introduced the subject matter.

Deputy City Manager Krueger provided a presentation regarding the proposed resolution declaring the City’s intent to reimburse certain expenditures. Specific topics of discussion included, but were not limited to, the opportunity to look at additional financing, non-taxable application, interest rate breaks, how the reimbursement resolution will apply, incorporation

of the expenditures into the debt issue making it a tax-free issue, and the refund of \$9 million from the 1991 issue. City Manager King stated the proposed resolution is not binding to any future action. He stated the three pieces for consideration will be the refinancing of existing debt, the extension of the treatment plant, and costs of the replacement line.

In response to Mayor Johnson, Mr. Krueger stated about \$9 million will be refinanced and there are some additional proceeds available as well.

In response to Council Member Hitchcock, Mr. Krueger stated the reimbursement will become a part of the new debt.

In response to Council Member Hitchcock, Mr. King and Mr. Krueger stated capital expenditures are the main portion of the costs along with some administrative costs. They also discussed the availability of cash, the technical need to reimburse some expenditures, and the dates and timeline for the financing.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Mounce, Hansen second, unanimously adopted Resolution No. 2007-164 declaring the City of Lodi's intent to reimburse certain expenditures from proceeds of indebtedness for wastewater projects.

- K-4 "Authorize Funds from the Protocol Account for the City Council to Host a Reception Honoring Members of Council-Appointed Boards, Commissions, Committees, and Task Force Groups (Approximately \$2,600 / \$20 Per Person)"

City Clerk Johl provided a brief report regarding the proposed plan for the current reception and the history of the annual event.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, unanimously authorized funds from the Protocol Account in the amount of approximately \$2,600 (or \$20 per person) for the City Council to host a reception honoring members of Council-appointed boards, commissions, committees, and task force groups.

L. ORDINANCES

- L-1 Following reading of the title of Ordinance No. 1800 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 9 – Public Peace, Morals, and Welfare – Chapter 9.18, 'Vending on Streets and Sidewalks,' by Repealing and Reenacting Chapter 9.18, 'Vending on Streets, Sidewalks, and Private Property,'" having been introduced at a regular meeting of the Lodi City Council held July 18, 2007, the City Council, on motion of Mayor Pro Tempore Mounce, Johnson second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Hansen, Hitchcock, Katzakian, Mounce, and
Mayor Johnson

Noes: Council Members – None

Absent: Council Members – None

Abstain: Council Members – None

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 9:13 p.m.

ATTEST:
Randi Johl
City Clerk